

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

THURAYYAH Z. RICHARDSON,

Plaintiff,

-against-

CVS HEALTH CORPORATION, and
CVS PHARMACY, INC.,

Defendants.

Index No.
Date Purchased: May 30, 2022

Plaintiff Designates New York County
As the place of trial.

Defendants' Address:

CVS PHARMACY, INC. and
CVS HEALTH CORPORATION
c/o CT Corporation System
28 Liberty Street
New York, NY 10005


TO THE ABOVE NAMED DEFENDANTS:

You are hereby summoned to answer the Complaint in this action and to serve a copy of your answer, or, if the Complaint is not served with this Summons, to serve a notice of appearance, on the plaintiff's attorneys within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Courthouse Address: 60 Centre Street, New York, New York 10007.

Dated: New York, New York
May 30, 2022

Marion & Allen, P.C.
Attorneys for Plaintiff



Roger K. Marion, Esq.
488 Madison Avenue, Suite 1120
New York, New York 10022
212-658-0350

SUPREME COURT OF THE STATE OF NEW YORK
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THURAYYAH Z. RICHARDSON,

Plaintiff,

-against-

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VERIFIED COMPLAINT

- Jury Demanded -

Thurayyah Z. Richardson (“Richardson” or “Plaintiff”) by and through her undersigned counsel, Roger K. Marion of Marion & Allen, P.C., as and for her Verified Complaint against defendants CVS Pharmacy, Inc. and CVS Health Corporation (“Defendants”), alleges as follows:

INTRODUCTION

1. This is an action to obtain compensation for Defendants marketing and selling a popular hair dye product, specifically the Clairol Texture & Tones 1B Silken Black hair color box, which bears a photograph of Plaintiff, but which Plaintiff did not authorize as required by law, and for which Plaintiff is not receiving compensation. This unjust enrichment is prohibited by law and Plaintiff is entitled to just compensation.

THE PARTIES

2. Plaintiff Richardson is a natural person residing in the City, County and State of New York.

3. Richardson is a model, actress, television host, producer, and recording artist who has served as a cover model for the Clairol Texture & Tones 1B Silken Black hair box for the Clairol Beauty Brand since 2003.

4. Defendant CVS Pharmacy, Inc. (“CVS Pharmacy”) is a foreign corporation with its headquarters in Rhode Island, authorized by the NY Department of State Division of Corporations to conduct business in the State of New York.

5. Defendant CVS Health Corporation (“CVS Health”) is a foreign corporation with its headquarters in Rhode Island.

6. At all times relevant herein CVS Pharmacy conducts and conducted continuous and substantial business in the City and State of New York.

7. At all times relevant herein CVS Health conducts and conducted continuous and substantial business in the City and State of New York.

8. CVS Pharmacy is a wholly-owned subsidiary of CVS Health, controlled by CVS Health, and at all times relevant hereto operates and operated out of the headquarters of CVS Health.

JURISDICTION AND VENUE

9. This Court has jurisdiction over each of the Defendants pursuant to CPLR §§ 301, 302(a)(1) and 302(a)(3).

10. At all times relevant herein CVS Pharmacy and CVS Health regularly transacts and transacted substantial business in New York where they own and operate numerous retail stores.

11. At all times relevant herein CVS Pharmacy and CVS Health derives and derived substantial revenue from their activities in New York and interstate commerce in New York, and should reasonably expect their activities to have consequences in New York related to those actions.

12. Having registered with the Secretary of State of the State of New York CVS Pharmacy fully accepted that the Courts of the State of New York would have personal jurisdiction over the Defendants.

13. As set forth below, the causes of action in this matter arose in the City and State of New York.

14. Thus venue in this Court is proper pursuant to CPLR§ 503 (a) and (c) because New York is the county in which one of the parties (Plaintiff) resided when it was commenced and is the county in which a substantial part of the events giving rise to the claim occurred.

FACTS APPLICABLE TO ALL CAUSES OF ACTION

A. Plaintiff's Likeness Used For Clairol Texture & Tones 1B Silken Black

15. Pursuant to a verbal agreement an subsequent payments, Plaintiff allowed herself for be photographed for her picture to be placed upon the Clairol Texture & Tones 1B Silken Black hair color box for the Clairol Beauty Brand, and that arrangement ended in 2016.

16. Plaintiff has never signed any written agreement permitting her likeness to be printed upon the Clairol Texture & Tones 1B Silken Black hair color box.

17. Plaintiff has not agreed to her likeness being placed upon nor sold upon any product after 2016.

18. Plaintiff never agreed to her likeness being used for print advertisement.

19. Plaintiff never agreed to her likeness being used for any Internet advertisement.

20. Plaintiff never agreed to her likeness being used for Internet marketing.

B. Defendants Are Using Plaintiff's Image Without Her Consent

21. Exhibit A is an advertisement promulgated by Defendants via the internet, as observed November 4, 2021 in the State of New York for the Clairol Texture & Tones 1B Silken Black hair color box.

22. The middle box in the top row of hair color boxes in Exhibit A has Plaintiff's image on the front of the box

23. Exhibit B is an advertisement promulgated by Defendants via the internet, as observed April 4, 2022 in the State of New York for the Clairol Texture & Tones 1B Silken Black hair color.

24. The middle box in the top row of hair color boxes in Exhibit B has Plaintiff's image on the front of the box

25. Upon information and belief Defendants continue to use Plaintiff's image to advertise Clairol Texture & Tones 1B Silken Black hair color in the State of New York.

26. Upon information and belief Defendants also continue to sell Clairol Texture & Tones 1B Silken Black hair color in the State of New York with Plaintiff's image on the hair boxes to illustrate and make salable the hair color in that box.

27. If the box were plain without a picture upon it, it would not sell; thus all sales of Clairol Texture & Tones 1B Silken Black hair color in the State of New York are directly due to the use of Plaintiff's image.

28. For purposes of this Complaint all advertising by Defendants using Plaintiff's image to advertise Clairol Texture & Tones 1B Silken Black hair color, including but not limited to the advertising in Exhibit A and Exhibit B are the "Advertisements".

29. Upon information and belief Defendants continue to use Plaintiff's image to profit from the sales of Clairol Texture & Tones 1B Silken Black hair color in the State of New York and worldwide with the benefit of the Advertisements (the "Sales").

30. Plaintiff never gave written consent for use of her image in the Advertisements nor for any use of her image on any box of Clairol Texture & Tones 1B Silken Black hair color manufactured for sale.

31. Plaintiff has never been paid any amount by Defendants at all for the use of her image.

32. No one has Paid Plaintiff any amount for Defendants to use Plaintiff's image in the Advertisements nor for the use of her image on Clairol Texture & Tones 1B Silken Black hair color within the past year.

AS AND FOR A FIRST CAUSE OF ACTION
(Defendants Violation of New York Civil Rights Law §51)

33. Plaintiff repeats and realleges each of the allegations contained in the paragraphs above with the same force and effect as if fully set forth herein.

34. Upon the facts set forth above it is undisputable that Defendants used and are using Plaintiff's picture within the state of New York for purposes of advertising and trade without Plaintiff's written consent.

35. Based upon New York Civil Rights Law §51, Plaintiff therefore has absolute right to injunctive relief to stop further use of her image and for the recovery of damages against Defendants.

36. Defendants profited from using Plaintiff's image to market and sell Clairol Texture & Tones 1B Silken Black hair color.

37. The image on the box of Clairol Texture & Tones 1B Silken Black hair color is what makes it salable; without an image of what is sold in the box, no boxes of Clairol Texture & Tones 1B Silken Black hair color would have been sold by Defendants.

38. Therefore all profits from Plaintiffs' sale of Clairol Texture & Tones 1B Silken Black hair color are directly attributable to Plaintiff's image being on the box and used in advertising.

39. Plaintiff has sustained and continues to sustain damages as a result of Defendants' unauthorized uses and publication, and reuse and republication of her image for commercial purposes.

40. As a result of Defendants' continued and unauthorized and uncompensated usages of the, Plaintiff's image the Plaintiff has suffered, and will continue to suffer, substantial monetary damages in an amount to be determined by the finder of fact in this action, but upon information and belief not less than five million dollars (\$5,000,000.00), emotional injury and irreparable harm.

AS AND FOR A SECOND CAUSE OF ACTION
(Injunctive Relief)

41. Plaintiff repeats and realleges each of the allegations contained in the paragraphs above with the same force and effect as if fully set forth herein.

42. Based upon New York Civil Rights Law §51, Plaintiff therefore has absolute right to injunctive relief to stop further use of her image.

43. Even without New York Civil Rights Law §51, in the absence of injunctive relief, Plaintiff will be irreparably harmed personally and in business in that she will forever lose control of her image which will be used without just compensation to herself.

44. Plaintiff has no adequate remedy at law, for the reason that loss of control of Plaintiff's image cannot be adequately compensated by money alone.

45. Under such circumstances equity is strongly in favor of injunctive relief barring further use of Plaintiff's image in commerce until and unless she has given express written consent for such use.

46. Based on the foregoing Plaintiff should be granted injunctive relief barring further use of Plaintiff's image in commerce until and unless she has given express written consent for such use.

AS AND FOR A THIRD CAUSE OF ACTION
(Unjust Enrichment)

47. Plaintiff repeats and realleges each of the allegations contained in the paragraphs above with the same force and effect as if fully set forth herein.

48. Defendants have benefited from and have been unjustly enriched by their unlawful, unauthorized and improper use of Plaintiff's images to sell Clairol Texture & Tones 1B Silken Black hair color as set forth above.

49. Defendant's unjust enrichment has come at Plaintiff's expense and detriment, and, as such, Plaintiff has suffered damages in an amount to be determined by the finder of fact in this action, but upon information and belief not less than five million dollars (\$5,000,000.00).

AS AND FOR A FOURTH CAUSE OF ACTION
(Quantum Meruit)

50. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs with the same force and effect as if the same were fully set forth herein.

51. The fair value of the use of Plaintiff's image by Defendants is not less than the a fair percentage of Plaintiff's sales proceeds from the sale of Clairol Texture & Tones 1B Silken Black hair color from their first sale or advertisement using Plaintiff's image to the date of judgment in this action.

52. Upon information and belief the fair percentage would be ten percent of said sales proceeds.

53. Plaintiff is thus entitled to recover from Defendants, in quantum meruit, for the value of the use of her image, in an amount to be determined at trial, but upon information and belief in no event less than five million dollars (\$5,000,000.00).

WHEREFORE, Plaintiff Thurayyah Z. Richardson demands judgment as follows:

A. On the First Cause of Action, awarding a Plaintiff injunctive relief barring Defendants' further use of Plaintiff's image in commerce until and unless she has given express written consent for such use and a judgment awarding Plaintiff damages from the Defendants in an amount not less than five million dollars (\$5,000,000.00);

B. On the Second Cause of Action, awarding Plaintiff injunctive relief barring Defendants' further use of Plaintiff's image in commerce until and unless she has given express written consent for such use;

C. On the Third Cause of Action, awarding Plaintiff a judgment for damages on the basis of unjust enrichment from the Defendants in an amount not less than five million dollars (\$5,000,000.00);

D. On the Fourth Cause of Action, awarding Plaintiff a judgment for damages on the basis of quantum meruit from the Defendants in an amount not less than five million dollars (\$5,000,000.00); and

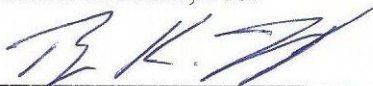
E. On each Cause of Action, awarding Plaintiff appropriate interest, plus the costs and disbursements incurred herein, and such other and additional relief as the Court deems just and proper.

DEMAND FOR A JURY

Plaintiff hereby demands that all factual issues of liability and damages in this matter which are not determined by summary judgment be determined by a civil jury.

Dated: New York, New York
May 20, 2022

Marion & Allen, P.C.



By: Roger K. Marion, Esq.
488 Madison Avenue, Suite 1120
New York, New York 10022
Telephone: 212-658-0350
Facsimile: 212-308-8582
E-Mail: rmarion@rogermarion.com
Attorneys for Plaintiff

VERIFICATION

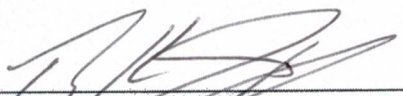
STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Thurayyah Z. Richardson being duly sworn deposes and says:

I am the Plaintiff in the within proceeding; I have read the foregoing Verified Complaint, know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to the matters, I believe them to be true.



Sworn to before me this
21st day of May 2022



Notary Public

EXHIBIT A

myCVS® Store
275 CHESTNUT STREET NEWA... Choose a Store > myWeekly Ad

Sign In or Create an Account
Store Locator Español

CVS pharmacy™ Search Products

Pharmacy MinuteClinic® Shop ExtraCare® Contact Lenses Photo My Orders Easy Reorder Basket

Shop all categories

Get \$10 off, this week only! Spend \$70+, save on entire online order. Use code **SAVE10** at checkout. [See details](#)

[Home](#) > [Shop](#) > [Beauty](#) > [Hair Care](#) > [Hair Color](#)

Clairol Professional Textures & Tones Hair Color 1 Kit

★★★★☆ 4.1 (126)

\$7.99

\$7.99 / ea.

Prices may vary from online to in store

Color: 1B Silken Black

- 2N Dark Brown 6G Honey Blonde
- 4 RC Cherrywood 6R Ruby Rage
- 6 BV Bronze 1N Natural Black
- 8RO Flaming Desire 3N Cocoa Brown
- 1B Silken Black** 3 RV Plum
- 5G Light Golden Brown
- 4 RV Blazing Burgundy 7G Lightest Blonde
- 4R Red Hot Red



Show fewer options

Only in stores

How to get it

- ☒ **In stock at**
275 Chestnut Street
[Check nearby stores](#)
- ☐ **Shipping not available**
Item sold only in stores

Details

[See all Clairol products >](#)

Clairol Professional Textures & Tones Hair Color 1 Kit

1 EA, .56 lbs. Item # 416340

This luxurious color and conditioning system is specially formulated with natural protein and jojoba. It provides hair with long lasting color and shine, plus moisture rich conditioning.

- Long lasting haircolor
- Proven conditioning
- Moisture-rich haircolor
- No ammonia.

Ingredients

Ingredients: Water, Propylene Glycol, Hexylene Glycol, Monoethanolamine, C11-15 Pareth-9, Soytrimonium Chloride, C12-15 Pareth-3, Ethoxydiglycol, Cocamidopropyl Betaine, Oleth-5, P-Phenylenediamine, Oleth-2, Dillinoleic Acid, Fragrance, Oleic Acid, Ascorbic Acid, N,N-Bis(2-Hydroxyethyl)-P-Phenylenediamine, Oleamide Mipa, Resorcinol, M-Aminophenol, Oleth-10, Sodium Sulfite, 1-Naphthol, EDTA, Aloe Barbadensis Leaf Extract, Chamomilla Recutita (Matricaria) Flower Extract, Myristica Fragrans (Nutmeg) Extract, Rosa Canina Fruit Extract, Jasminum Officinale (Jasmine) Flower Extract, Simmondsia Chinensis (Jojoba) Seed Extract, Tocopheryl Acetate, Polysorbate 20, Hydrolyzed Vegetable Protein.

Directions

Put on gloves provided. Mix haircolor with developer, apply to hair (after having done strand test).

Warnings

Haircolor products can cause allergic reactions which in rare cases can be severe. Tattoos may increase your risk of allergy to this product. Conduct a skin allergy test 48 hours before each time you color even if you have already used coloring products before. So remember to buy the product 48 hours in advance. Do not use product at all if: You have already experienced any reaction to haircolor products. You have sensitive, irritated or damaged scalp. In rare cases, use of hair colorants has been associated with skin depigmentation (skin lightening or loss of color). This may be temporary or permanent. If you notice any skin depigmentation or other allergic reactions such as pain or severe itching, discontinue use immediately. This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used on dyeing the eyelashes or eyebrows. To do so may cause blindness. Product not intended to be used on children. Keep out of reach of children.

Featured products Sponsored



Aussie
Aussie Mega Hold
Hairspray with Jojoba Oil...



Pantene Pro-V
Pantene Pro-V Level 4
Extra Strong Hold Textur...



Garnier
Garnier Fructis Curl
Sculpting Conditioning ...



Garnier
Garnier Fructis Curl
Construct Mousse, 6.8 OZ



Garnier
Garnier Fructi
Spray Gel, 8.1

Customer reviews*

Average rating

3.9 ★★★★★
150 reviews

57% would recommend



Write a review

See all reviews (126)

Sort by

Newest to oldest

Ratings

All ratings

Ages

All ages

Gender

Show all

★★★★★

I used to use

By adelemariegp on 10/4/2021

I used to use this at home box dye when I was a blonde, years ago. I remember it being super simple to mix, apply and the results were amazing. No one ever beloved it was an at home box dye.

influenster

Originally posted on influenster.com

★★★★★

Nice Product!

on 9/22/2021

I recently did the big chop and wanted to do something different since I've had the same hairstyle and color over 20 years. Decided to go from darkest brown to honey blonde. After the first application my hair went to a weird orangy brown that wasn't bad. A few weeks later I reapplied using two boxes instead based on the th

Read More

Yes, I recommend this product.

COTY Originally posted on Clairol

EXHIBIT B

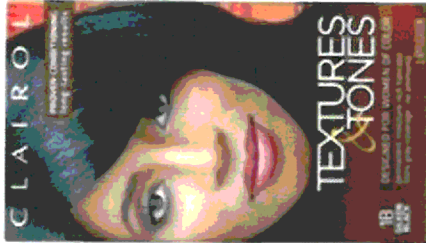
Clairol Professional Textures & Tones

Home > Shop > Beauty > Hair Care > Hair Color

4.1 113

Get 20% off, this week only! Spend \$55+ save on entire online order. Use code **SAVE20** at checkout. [See details](#)

Clairol Professional Textures & Tones Hair Color 1 Kit



18 Silken Black

5G Light Golden Brown

8RO Flaming Desire

4 RV Blazing Burgundy

6G Honey Blonde

1B Silken Black

4R Red Hot Red

6 BV Bronze

2N Dark Brown

3N Cocoa Brown

3 RV Plum

6R Ruby Rage

7G Lightest Blonde

4 RC Cherrywood

1N Natural Black

Limit 99 per order

Quantity 1

Add to Basket

How to get it

In stock at 275 Chestnut Street

Check nearby stores

Pickup at 275 Chestnut Street

Clairol's Store

Shipping

Eligible for 1-4 day shipping

Ships Free With **CarePass™** or with \$35+ orders

Search for anything

Remaining: 34:25

End Session 2:57 PM 4/4/2022

40°F Partly sunny

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COUNTY OF NEW YORK

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Plaintiff,

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CVS HEALTH CORPORATION, and
CVS PHARMACY, INC.,


Defendants.

Index No.

SUMMONS AND COMPLAINT WITH EXHIBITS

ROGER K. MARION, ESQ.
MARION & ALLEN PC
488 Madison Avenue
Suite 1120
New York, New York 10022
(212) 658-0350
Attorneys for Plaintiff

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the Courts of New York State, certifies that, upon information and belief after reasonable inquiry, the annexed documents and the contents thereof are not frivolous.



Roger K. Marion, Esq.